



**UNITED STATES DEPARTMENT OF COMMERCE**  
**Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
097182,102	10/27/98	HAAF	T A-65680-2/RF

FLEHR HOHBACH TEST  
ALBRITTON & HERBERT  
FOUR EMBARCADERO CENTER  
SUITE 3400  
SAN FRANCISCO CA 94111

HM22/0217

EXAMINER

BRUSCA, J

ART UNIT	PAPER NUMBER
----------	--------------

1631

DATE MAILED:

02/17/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Advisory Action

Part of Paper No. 11

JOHN S. BRUSCA  
PRIMARY EXAMINER  
ART UNIT 1631

*John S. Brusca*

☐ Other

☐ Note the attached Information Disclosure Statement(s), PTO-1449, Paper No(s).

☐ The proposed drawing correction filed on \_\_\_\_\_ has ☐ has not been approved by the Examiner.

Claims rejected: 18, 19, and 21

Claims objected to: none

Claims allowed: none

☒ For purposes of Appeal, the status of the claims is as follows (see attached written explanation, if any):

☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

☒ The affidavit, exhibit or request for reconsideration has been considered but does NOT place the application in condition for allowance because: all claims have been proposed to be amended and the amendment will not be entered.

☐ Newly proposed or amended claims \_\_\_\_\_ separate, timely filed amendment cancelling the non-allowable claims. \_\_\_\_\_ would be allowable if submitted in a

☐ Applicant's response has overcome the following rejection(s):

raise additional enablement issues.

NOTE: The added limitations to mammalian and human Rad 51 genes in claims 18 and 19 would require further search as the limitations have not been considered before. The proposed group of diseases for claim 21

☐ they present additional claims without cancelling a corresponding number of finally rejected claims.

☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the

☐ they raise the issue of new matter. (See note below).

☒ they raise new issues that would require further consideration and/or search. (See note below).

☒ will not be entered because:

☐ will be entered upon filing of a Notice of Appeal and an Appeal Brief.

☒ The proposed amendment(s):

Applicant's response to the final rejection, filed on 12/6/99 has been considered with the following effect, but is NOT deemed to place the application in condition for allowance:

☒ Appellant's Brief is due two months from the date of the Notice of Appeal filed on 12/6/99 (or within any period for response set forth above, whichever is later). See 37 CFR 1.191(d) and 37 CFR 1.192(a).

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

a) ☐ expires \_\_\_\_\_ months from the mailing date of the final rejection.

b) ☐ expires either three months from the mailing date of the final rejection, or on the mailing date of this Advisory Action, whichever is later. In no event, however, will the statutory period for the response expire later than six months from the date of the final rejection.

THE PERIOD FOR RESPONSE: (check only a) or b))

Advisory Action

Application No.  
09/182,102

Applicant(s)

Haaf et al.

Examiner

John S. Brusca

Group Art Unit

1631

